

Assembly Joint Resolution No. 31

RESOLUTION CHAPTER 41

Assembly Joint Resolution No. 31—Relative to special education funding.

[Filed with Secretary of State June 28, 2010.]

LEGISLATIVE COUNSEL’S DIGEST

AJR 31, Buchanan. Special education funding.

This measure would respectfully memorialize the Congress and the President of the United States to enact one of the bills pending before Congress that would fully fund the federal Individuals with Disabilities Education Act.

WHEREAS, The federal Education for All Handicapped Children Act of 1975 (1975 Act) was enacted by Congress and signed into law by the President as Public Law 94-142 to address the failure of states to meet the educational needs of children with disabilities. This Act, known as the federal Individuals with Disabilities Education Act (IDEA) since 1990 with the enactment of Public Law 101-476, remains as the cornerstone of federal statutory mandates governing special education; and

WHEREAS, The purpose of the 1975 Act, as declared by Congress, was to assure that all children with disabilities have available to them, within specified time periods, “a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist States and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities”; and

WHEREAS, The 1975 Act authorized a maximum state funding entitlement of 40 per cent, for the fiscal year ending September 30, 1982, and for each fiscal year thereafter, of the average per pupil expenditure in public elementary and secondary schools in the United States; and

WHEREAS, Since 1975, including in the most recent amendments to the IDEA, Public Law 108-446, the federal Individuals with Disabilities Education Improvement Act of 2004, Congress has maintained the funding authorization at “40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States”; and

WHEREAS, The federal government has never paid its promised 40 percent share of the IDEA mandate. For many years, Congress paid less than 8 percent of the excess cost of educating children with disabilities which forced the states and local educational agencies to cover the remaining costs. The California student population requiring special education and

related services continues to grow each year. As of December 1, 2009, California's special education pupils number more than 677,000; and

WHEREAS, School, disability, and parent groups have been trying for years to bring IDEA appropriations up to the authorized 40 percent of average per-pupil expenditures, the maximum any state can receive per student with disability. This effort has come to be known as "full funding," but the effort has never succeeded; and

WHEREAS, The California Legislature, since the early 1990s, has approved a number of joint resolutions memorializing the President and the U.S. Congress to provide the full federal share of funding for special education programs to the states so that this state and other states will not be required to take funding from other vital state and local programs to fund this underfunded federal mandate; and

WHEREAS, The current federal appropriations for Part B of the IDEA are only \$11.5 billion, not counting funds under the federal American Recovery and Reinvestment Act of 2009 (ARRA). That appropriation is about 17 percent of the average per-pupil expenditure, according to congressional sources. With ARRA, the federal funding share for Part B of IDEA amounted to approximately 33.4 percent of the 40 percent authorized level, a temporary infusion of stimulus funds; and

WHEREAS, On December 16, 2009, the President signed the Fiscal Year 2010 omnibus appropriations bill, Public Law 111-117, that funded IDEA Part B Grants to states at its Fiscal Year 2009 level of \$11.5 billion. IDEA Part C special education grants for infants and families and Section 610 special education grants for preschools were also funded at last year's allocations of \$439 million and \$374 million, respectively; and

WHEREAS, Funding at the 40 percent authorized level would be approximately \$30,247,123,000, and would provide California special education programs over \$3 billion annually; and

WHEREAS, Four bills are currently pending in the United States House of Representatives and Senate to fully fund IDEA at the authorized 40 percent funding level; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature respectfully memorializes the Congress and the President of the United States to enact one of the bills pending before Congress that would fully fund IDEA; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.